

**INSTRUCTIONS FOR COMPLETING AN APPLICATION FOR
A CONDITIONAL WATER PERMIT**

**A CONDITIONAL WATER PERMIT APPLICATION MUST BE COMPLETED ON
SWC FORM NO. 108: (SEE EXAMPLES ON PAGES 5, 8, 11, 14 & 17)**

1. Complete all applicable blanks on the application form. If the application is not satisfactorily completed, it will be returned.
2. If an appropriation involves the storage of water, both the quantity of water which will be stored at the level of the principal spillway and the quantity which will be lost to evaporation from the corresponding surface area must be identified in item #4a on the application form. The mean net evaporative loss (gross evaporation less precipitation) can be determined from the SCS North Dakota Hydrology Manual, or upon request it will be provided by the State Engineer. If there are other uses involved in the proposed appropriation, they should be identified in item #4b. The total annual use will be the evaporation from item #4a and the other annual uses identified in #4b. (see example page 17)
3. An individual may not hold undeveloped conditional water permits and pending applications for irrigation purposes that when totaled exceed 720 acre-feet of water. This does not apply to applications for water permits to appropriate water from the Missouri River or applications submitted by irrigation districts.
4. An application will not be accepted that requests the appropriation of water from more than one water source. An appropriation from the main channel of a river and from a tributary to the river is an example of an appropriation from more than one water source.
5. The following application fee must accompany the application:
 - a. For municipal use in municipalities of 2500 population or over according to the latest federal census.....\$500
 - b. For municipal use in municipalities of less than 2500 population according to the latest federal census.....\$250
 - c. For irrigation.....\$200
 - d. For industrial use of one c.f.s. or less, or seven hundred twenty four acre-feet annually, or less.....\$250
 - e. For industrial use in excess of one c.f.s., or in excess of seven hundred twenty four acre-feet annually.....\$750
 - f. For recreation, livestock, or fish and wildlife\$100
 - g. For commercial recreation\$200
 - h. Water permit amendment\$50

6. The date the application is received by the State Engineer will be the priority date assigned to the application, unless the applicant fails to complete the application process as prescribed by statute.
7. If the application is approved, a conditional water permit will be issued. The conditional water permit does not create a water right. Rather, it is an authorization for the permittee to construct facilities (such as a well and irrigation system) and to begin utilization of water. A water right will accrue to the permittee upon beneficial use of water.
8. A perfected permit will be issued after the permittee has put the water to beneficial use.

PREPARATION OF MAP: (SEE EXAMPLES ON PAGES 7, 10, 13, 16, & 19)

1. A map must accompany the application. It must be prepared from an actual survey, aerial photograph, or topographic map, and certified by a licensed surveyor unless another type of map is first approved by the State Engineer. The State Engineer may require additional information on the map if it is deemed necessary.

a. The examples shown herein should be used as a guide in preparing the map.

b. The map shall be drawn or generated by computer methods on a 8 1/2" x 11" white 20 bond paper.

Handwritten information will not be accepted.

c. The map must show the following information:

- (1) Section, Township, Range and county designation to satisfactorily locate proposed works.
- (2) Points of diversion are to be shown by "o" at their proper location. (If system is portable, state "portable system" in the lower right hand portion of map.)
- (3) If use is for irrigation, irrigated tracts in each 40 acre subdivision must be indicated by cross hatching. Include number of acres to be irrigated in each 40 acre subdivision and round off to the nearest tenth of an acre.
- (4) If use is for industrial purposes, show point of diversion and means of conveying water to place of use.
- (5) If use is for municipal purposes show point of diversion and the system to convey water to the central storage facility. Map may be drawn in reference to city blocks but also must show in what legal subdivision works are located. Show section, quarter section or one-sixteenth section lines as applicable.

- (6) If application proposes use of a dam and storage reservoir, show the outline of the reservoir with point of diversion marked at the point on the reservoir from which the diversion will be made.
- (7) If water wells are used, label wells with "o". Show the route of the pipeline or ditch to the point or area of use or central collection point.
- (8) The watercourse from which water is diverted must be shown and named, and the direction of flow indicated.
- (9) A north arrow must be shown.
- (10) Scale of map must be shown (For example, 1" equals 1000' is a satisfactory scale for a one square mile tract of land.)
- (11) The State Engineer may return the map to the applicant for correction if he desires additional information to properly evaluate the conditional water permit application.
- (12) The title in the lower right hand corner of the map must indicate the name of the applicant and his post office address. (See examples on pages 7, 10, 13, 16, & 19)
- (13) The Certificate of Surveyor, located in the lower left hand corner of the map, must be signed by a licensed surveyor and be in the following form:

CERTIFICATE OF SURVEYOR

STATE OF NORTH DAKOTA)
) SS
COUNTY OF _____)

I, _____ of _____
Name Address

do hereby certify that this map was prepared from notes or information obtained from an

(actual survey, aerial photograph, or topographic map)

made by _____ (or made under my direction)
(person or firm who performed survey)

by _____) on the _____ day of _____,

_____, 2,0_____, for whose work I stand personally

responsible, and that it correctly represents the _____
(irrigation, municipal, industrial,
fish & wildlife or recreation)

works for the accompanying application, together with a meander of streams, (and shows accurately the location and area of lands to be irrigated in each subdivision.)

Signature of Surveyor

NOTIFICATION AS REQUIRED BY STATUTE:

Upon receipt of a complete application, completed **Notice of Application** forms will be forwarded to the applicant along with a letter of instructions. Applicants are required by law to:

1. Provide notice of the application by certified mail to all record title owners of real estate within a radius of one mile from the location of the proposed water appropriation site, **EXCEPT:**
 - a. If the one-mile radius extends within the geographical boundary of a city, the notice must be given to the governing body of the city and no further notice need be given to the record title owners of real estate within the geographical boundary of the city.
 - b. If the one-mile radius includes land within the geographical boundary of a rural subdivision where the lots are ten acres or less, the notice must be given to the governing body of the township or other governing authority for the rural subdivision and no further notice need be given to the record title owners of real estate within the geographical boundary of the rural subdivision.
 - c. If the one-mile radius includes a single tract of rural land which is owned by more than ten individuals, the notice must be given to the governing body of the township or other governing authority for that tract of land and no further notice need be given to the record title owners of the tract.

NOTE: The record title owners shall be determined by an actual search of the records of the appropriate County Records office within 15 days of the mailing of the notice to landowners. The record title owners of land under contract for deed shall be deemed to include both grantor and grantee of a contract for deed.

2. Provide notice of application by certified mail to each person holding a water permit for the appropriation of water from an appropriation site located within a radius of one mile from the location of the “*proposed*” appropriation site. The *State Engineer will provide* the applicant a list of permit holders who must be notified.

3. Provide notice of application by certified mail to all municipal or public use water facilities within a twelve-mile radius of the “*proposed*” water appropriation site. The *State Engineer* will provide the applicant a list of all municipal or public use water facilities that must be notified.
4. After sending the completed **Notice of Application** forms by certified mail, the applicant must return, within sixty days from the date of the engineer’s notification instructions, by certified mail, the completed affidavit of notice and Postal Service form **3877**.
Upon receipt of the completed affidavit of notice and Postal Service form **3877**, the state engineer shall publish notice of the application in the official newspaper of the county in which the proposed appropriation site is located, once a week for two consecutive weeks. The applicant is required to pay the publication fees for the **Notice of Application**.
5. The **notice of application** will give essential facts about the application and the date by which written comments regarding the proposed appropriation must be filed with the state engineer.
 - a. The state engineer shall consider all written comments received and shall recommend in writing approval or disapproval of the application or that the application be held in abeyance. A copy of the recommended decision must be mailed to the applicant and any person who filed written comments.
 - b. Within thirty days after the recommended decision is mailed, the applicant and any person who filed written comments may file additional written comments with the state engineer or request a hearing on the application, or both. If a request for a hearing is not made, the state engineer will consider the additional comments and issue a final decision. If a request for a hearing is made, or the state engineer determines a hearing is necessary to obtain additional information, the state engineer will designate a time and place for the hearing and serve a notice of the hearing upon the applicant and any person who filed written comments.
6. If two or more municipal or public use water facilities request the hearing to be held locally, the state engineer shall hold the hearing in the county seat of the county in which the proposed water appropriation site is located.